

SMALL BUSINESS  
Docket No.: 21829/31 (EBC-002)

Applicant or Patentee : **Zhong-Min Wei, Hao Fan, and Jennifer L. Niggemeyer**  
Serial or Patent No. : **09/412,100**  
Filed or Issued : **October 4, 1999**  
For : **HYPERSENSITIVE RESPONSE ELICITOR FRAGMENTS  
WHICH ARE ACTIVE BUT DO NOT ELICIT A  
HYPERSENSITIVE RESPONSE**

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS  
(37 CFR 1.9(f) and 1.27(c)) - SMALL BUSINESS CONCERN**

I hereby declare that I am

- ☐ the owner of the small business concern identified below:  
☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN : **EDEN Bioscience Corporation**  
ADDRESS OF CONCERN : **11816 North Creek Parkway N.  
Bothell, Washington 98011-8205**

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled **HYPERSENSITIVE RESPONSE ELICITOR FRAGMENTS WHICH ARE ACTIVE BUT DO NOT ELICIT A HYPERSENSITIVE RESPONSE** by inventors **Zhong-Min Wei, Hao Fan, and Jennifer L. Niggemeyer** described in

- ☐ the specification filed herewith  
☒ U.S. Patent Application Serial No.: **09/412,100**  
Filed: **October 4, 1999**  
☐ U.S. Patent No.:  
Issued:

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below\* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR 1.9(d) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e). \*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27).

NAME :  
ADDRESS :

☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

NAME :  
ADDRESS :

☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING	:	<b>Jerry L. Butler</b>
TITLE OF PERSON OTHER THAN OWNER	:	<b>President and Chief Executive Officer</b>
ADDRESS OF PERSON SIGNING	:	<b>11816 North Creek Parkway N. Bothell, Washington 98011-8205</b>

SIGNATURE: \_\_\_\_\_



DATE: \_\_\_\_\_

10/25/99

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**HYPERSENSITIVE RESPONSE ELICITOR FRAGMENTS WHICH ARE ACTIVE BUT DO NOT ELICIT A  
HYPERSENSITIVE RESPONSE**

the specification of which (check only one item below):

☒ is attached hereto.

☐ was filed as U.S. Patent Application Serial No. \_\_\_\_\_ on \_\_\_\_\_ and was amended on \_\_\_\_\_  
(if applicable).

☐ was filed as PCT International Application Number \_\_\_\_\_ on \_\_\_\_\_ and was amended under PCT Article 19  
on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specifications, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

**PRIOR FOREIGN/PCT APPLICATION(S) AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. 119:**

COUNTRY (IF PCT, indicate "PCT")	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 35 USC 119
United States	60/103,050	05-OCT-1998	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO

**COMBINED DECLARATION FOR PATENT  
APPLICATION AND POWER OF ATTORNEY (Continued)**  
(Includes Reference to PCT International Applications)

**ATTORNEY'S DOCKET NUMBER**  
**21829/31 (EBC-002)**

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT International filing date of this application:

**PRIOR U.S. APPLICATIONS OR PCT INTERNATIONAL APPLICATIONS DESIGNATING THE U.S. FOR BENEFIT UNDER 35 U.S.C. 120:**

U.S. APPLICATIONS			STATUS (Check One)		
U.S. APPLICATION NUMBER	U.S. FILING DATE	PATENTED	PENDING	ABANDONED	
PCT APPLICATIONS DESIGNATING THE U.S.					
PCT APPLICATION NO.	PCT FILING DATE	U.S. SERIAL NUMBERS ASSIGNED (if any)			

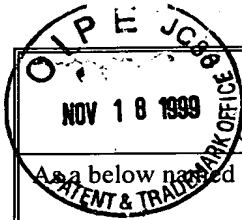
**POWER OF ATTORNEY:** As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. **Michael L. Goldman, Registration No. 30,727, Gunnar G. Leinberg, Registration No. 35,584; Dennis M. Connolly, Registration No. 40,964; Edwin V. Merkel, Registration No. 40,087, Jeffery B. Arnold, Registration No. 39,540, Georgia Caton, Registration No. P-44,597**

Send Correspondence to:	<b>Michael L. Goldman NIXON PEABODY LLP Clinton Square, P.O. Box 1051 Rochester, New York 14603</b>	Direct telephone calls to: <b>Michael L. Goldman (716) 263-1304</b>
-------------------------	---	--

201	FULL NAME OF INVENTOR	FAMILY NAME <b>Wei</b>	FIRST GIVEN NAME <b>Zhong-Min</b>	SECOND GIVEN NAME
	RESIDENCE & CITIZENSHIP	CITY <b>Kirkland</b>	STATE/FOREIGN COUNTRY <b>Washington</b>	COUNTRY OF CITIZENSHIP <b>China</b>
	POST OFFICE ADDRESS	P.O. ADDRESS <b>8230 125<sup>th</sup> Court</b>	CITY <b>Kirkland</b>	STATE & ZIP CODE/COUNTRY <b>Washington 98034/USA</b>
202	FULL NAME OF INVENTOR	FAMILY NAME <b>Fan</b>	FIRST GIVEN NAME <b>Hao</b>	SECOND GIVEN NAME
	RESIDENCE & CITIZENSHIP	CITY <b>Bothell</b>	STATE/FOREIGN COUNTRY <b>Washington</b>	COUNTRY OF CITIZENSHIP <b>China</b>
	POST OFFICE ADDRESS	P.O. ADDRESS <b>19712 6<sup>th</sup> Drive S.E.</b>	CITY <b>Bothell</b>	STATE & ZIP CODE/COUNTRY <b>Washington 98012/USA</b>
203	FULL NAME OF INVENTOR	FAMILY NAME <b>Niggemeyer</b>	FIRST GIVEN NAME <b>Jennifer</b>	SECOND GIVEN NAME <b>L.</b>
	RESIDENCE & CITIZENSHIP	CITY <b>Bothell</b>	STATE/FOREIGN COUNTRY <b>Washington</b>	COUNTRY OF CITIZENSHIP <b>United States</b>
	POST OFFICE ADDRESS	P.O. ADDRESS <b>21315 2<sup>nd</sup> Avenue S.E.</b>	CITY <b>Bothell</b>	STATE & ZIP CODE/COUNTRY <b>Washington 98021/USA</b>

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

SIGNATURE OF INVENTOR 201 <b>UNSIGNED</b>	SIGNATURE OF INVENTOR 202 <b>UNSIGNED</b>	SIGNATURE OF INVENTOR 203 <b>UNSIGNED</b>
DATE	DATE	DATE



COMBINED DECLARATION FOR PATENT  
APPLICATION AND POWER OF ATTORNEY  
(Includes Reference to PCT International Applications)

ATTORNEY'S DOCKET NUMBER  
21829/31 (EBC-002)

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**HYPERSENSITIVE RESPONSE ELICITOR FRAGMENTS WHICH ARE ACTIVE BUT DO NOT ELICIT A  
HYPERSENSITIVE RESPONSE**

the specification of which (check only one item below):

☐ is attached hereto.

☒ was filed as U.S. Patent Application Serial No. 09/412,100 on **October 4, 1999** and was amended on \_\_\_\_\_  
(if applicable).

☐ was filed as PCT International Application Number \_\_\_\_\_ on \_\_\_\_\_ and was amended under PCT Article 19  
on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specifications, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

**PRIOR FOREIGN/PCT APPLICATION(S) AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. 119:**

COUNTRY (IF PCT, indicate "PCT")	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 35 USC 119
United States	60/103,050	05-OCT-1998	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO
			<input type="checkbox"/> YES <input type="checkbox"/> NO

**COMBINED DECLARATION FOR PATENT  
APPLICATION AND POWER OF ATTORNEY (Continued)**  
(Includes Reference to PCT International Applications)

**ATTORNEY'S DOCKET NUMBER**  
**21829/31 (EBC-002)**

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT International filing date of this application:

**PRIOR U.S. APPLICATIONS OR PCT INTERNATIONAL APPLICATIONS DESIGNATING THE U.S. FOR BENEFIT UNDER 35 U.S.C. 120:**

**U.S. APPLICATIONS**

**STATUS (Check One)**

U.S. APPLICATION NUMBER	U.S. FILING DATE	PATENTED	PENDING	ABANDONED

**PCT APPLICATIONS DESIGNATING THE U.S.**

PCT APPLICATION NO.	PCT FILING DATE	U.S. SERIAL NUMBERS ASSIGNED (if any)		

**POWER OF ATTORNEY:** As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. **Michael L. Goldman, Registration No. 30,727, Gunnar G. Leinberg, Registration No. 35,584; Dennis M. Connolly, Registration No. 40,964; Edwin V. Merkel, Registration No. 40,087, Jeffery B. Arnold, Registration No. 39,540, Georgia Caton, Registration No. P-44,597**

Send Correspondence to:

**Michael L. Goldman  
NIXON PEABODY LLP  
Clinton Square, P.O. Box 1051  
Rochester, New York 14603**

Direct telephone calls to:  
**Michael L. Goldman  
(716) 263-1304**

201	FULL NAME OF INVENTOR	FAMILY NAME <b>Wei</b>	FIRST GIVEN NAME <b>Zhong-Min</b>	SECOND GIVEN NAME
	RESIDENCE & CITIZENSHIP	CITY <b>Kirkland</b>	STATE/FOREIGN COUNTRY <b>Washington</b>	COUNTRY OF CITIZENSHIP <b>China</b>
	POST OFFICE ADDRESS	P.O. ADDRESS <b>8230 125<sup>th</sup> Court</b>	CITY <b>Kirkland</b>	STATE & ZIP CODE/COUNTRY <b>Washington 98034/USA</b>
202	FULL NAME OF INVENTOR	FAMILY NAME <b>Fan</b>	FIRST GIVEN NAME <b>Hao</b>	SECOND GIVEN NAME
	RESIDENCE & CITIZENSHIP	CITY <b>Bothell</b>	STATE/FOREIGN COUNTRY <b>Washington</b>	COUNTRY OF CITIZENSHIP <b>China</b>
	POST OFFICE ADDRESS	P.O. ADDRESS <b>19712 6<sup>th</sup> Drive S.E.</b>	CITY <b>Bothell</b>	STATE & ZIP CODE/COUNTRY <b>Washington 98012/USA</b>
203	FULL NAME OF INVENTOR	FAMILY NAME <b>Niggemeyer</b>	FIRST GIVEN NAME <b>Jennifer</b>	SECOND GIVEN NAME <b>E. J. M.</b>
	RESIDENCE & CITIZENSHIP	CITY <b>Bothell</b>	STATE/FOREIGN COUNTRY <b>Washington</b>	COUNTRY OF CITIZENSHIP <b>United States</b>
	POST OFFICE ADDRESS	P.O. ADDRESS <b>21315 2<sup>nd</sup> Avenue S.E.</b>	CITY <b>Bothell</b>	STATE & ZIP CODE/COUNTRY <b>Washington 98021/USA</b>

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

SIGNATURE OF INVENTOR 201 <i>Wei</i>	SIGNATURE OF INVENTOR 202 <i>Li Fan</i>	SIGNATURE OF INVENTOR 203 <i>Jennifer Niggemeyer</i>
DATE 10-27-99	DATE 10-27-99	DATE 10-27-99